

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE DELAWARE PUBLIC)
SERVICE COMMISSION'S JURISDICTION OVER)
ELECTRIC VEHICLE CHARGING STATIONS AND) PSC Docket NO.19-0377
SERVICE PROVIDERS)
(FILED JUNE 11, 2019))

ORDER NO. 9418

AND NOW, this 18th day of June, 2019;

WHEREAS, the Commission has become aware of a general interest in the development of the electric vehicles market and the means of charging such vehicles in the State of Delaware, and whether the owners and operators of electrical vehicles charging stations should be subject to regulation; and

WHEREAS, the Commission believes that there is sufficient interest in electric vehicles that there exists the potential basis for the development of a competitive industry in electric vehicles and charging stations; and

WHEREAS, for the last two legislative sessions, this Commission has directed Staff to propose legislation that would exempt electric vehicle charging station owners and operators from Commission regulation, and to date for a variety of reasons no legislation to deregulate electrical charging stations has been passed; and

WHEREAS, Under the provisions of 26 *Del. C.* § 201(d) (1), the Commission may on its own motion, after notice and hearing, forbear from (“deregulate”) in whole or in part, its supervision and regulation over some or all public utility products or services where the

Commission determines that a competitive market exists for such products and services, and where the Commission finds that such deregulation will be in the public interest; and

WHEREAS, in making such a determination for forbearance from Commission supervision and regulation, the Commission must find among other things:

a. Whether a competitive market exists for the particular utility product or service being wholly or partly deregulated. In making that determination, the conditions and factors to be considered may include, but are not limited to: (1) The existing or prospective market power of the utility with respect to its products or services for which deregulation is sought; (2) Are there significant entry or exit costs or other barriers to potential competitors; and (3) Is there a reasonable basis to expect that prices of wholly or partly deregulated products or services will reflect the incremental costs of supply;

b. Whether any safeguards are necessary to prevent a material adverse effect on utility service quality or rate levels;

c. Whether or not an option to remain under the Commission's supervision and regulation should be made available for customers whose utility products and services would be deregulated by the proposal;

d. Whether or not the public utility shall unbundle each service or function on which a service depends to its fundamental elements and shall make those elements separately available to any customer whose utility service is being deregulated by the proposal under terms and conditions, including price, that are the same or comparable to those used by the public utility in providing its own service. The public utility shall not unreasonably discriminate between affiliated and unaffiliated providers of services in offering unbundled features, functions and capabilities; and

e. Whether the Commission should forbear from regulating competing providers; and

WHEREAS, the Commission finds that deregulation by the Commission of electric vehicle charging stations and service providers may be in the public interest and that, consequently, the Commission believes it should consider deregulating electric vehicles charging stations and electric vehicle service providers.

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE
VOTE OF NO FEWER THAN THREE COMMISSIONERS:**

1. That a docket shall be opened to review the issues relating to whether the Commission should continue its oversight of electric vehicle charging stations and service providers.

2. Public notice shall be given in the form attached hereto as **Exhibit A** in two-column format in the legal classified sections of *The News Journal* and the *Delaware State News* on or before June 24, 2019, providing this Commission with affidavits of publication of such public notices as soon as possible, but not later than July 1, 2019.

3. That Glenn C. Kenton is designated as Hearing Examiner for this matter pursuant to the terms of 26 *Del. C.* §502 and 29 *Del. C.* Ch. 101 to schedule and conduct, upon due notice, such public comment sessions and evidentiary hearings, as may be necessary, to have a full and complete record on the issues identified in 26 *Del. C.* § 201 (d) *et. seq.* Thereafter, Hearing Examiner Kenton shall file with the Commission his proposed findings and recommendations on the issue of the appropriateness of the Commission considering deregulating electric vehicles and charging stations. Pursuant to PSC Rule 21 of the Commission's Rules of Practice and Procedure, Hearing Examiner Kenton is specifically delegated the authority to grant or deny petitions seeking leave to intervene and for admission of counsel *pro hac vice*. In addition, Hearing Examiner

Kenton is delegated the authority, under 26 *Del. C.* §102(A), to determine the form and manner of any further public notice in this matter.

4. That the deadline for filing petitions to intervene pursuant to 26 *Del. Admin. C.* §1001.2.9 shall be **July 16, 2019**. Late-filed petitions to intervene will not be granted unless good cause is shown. Interveners must comply with the procedural schedule in place at the time intervention is granted, including deadlines established prior to the granting of intervener status.

5. That the Commission reserves the jurisdiction and authority to enter such further orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Chairman

Commissioner

Commissioner

Commissioner

Commissioner

ATTEST:

Secretary

EXHIBIT “A”

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE COMMISSION’S)
JURISDICTION OVER ELECTRIC VEHICLE) PSC DOCKET NO. 19-0377
CHARGING STATIONS AND SERVICE)
PROVIDERS)
(FILED JUNE 11, 2019))

PUBLIC NOTICE

**TO: ALL OWNERS AND OPERATORS OF ELECTRIC VEHICLE CHARGING
STATIONS AND OTHER INTERESTED PARTIES:**

On June 18, 2019, the Public Service Commission Staff (“Staff”) filed with the Delaware Public Service Commission (the “Commission”) a P e t i t i o n requesting the Commission investigate whether owners of electric vehicle (“EV”) charging stations and service providers should be subject to regulation.

On June 18, 2019, the Commission entered an order to, among other things, open a docket for consideration of the Petition and direct completion of public comment sessions.

The Petition can be found on the Commission’s e-filing website at the following address: <http://delafile.delaware.gov>.

The Commission has appointed Hearing Examiner Glenn Kenton to conduct public comment sessions and evidentiary hearings as may be necessary or appropriate to develop a full

and complete record concerning this matter, to be scheduled at a later date. The Commission's final decision will be based on the evidence presented at such hearings.

If you wish to formally participate as a party in this matter, with the right to present evidence and represented by counsel, you must file with the Commission a written petition requesting leave to intervene by July 16, 2019 in accordance with the requirements of the Commission's Rules of Practice and Procedure. Petitions filed after the deadline of July 16, 2019, will not be considered except for good cause shown.

Interested persons may file written comments *on or before August 30, 2019*. All written comments or petitions for leave to intervene should be sent to the Commission's address:

Public Service Commission 861 Silver
Lake Blvd. Cannon Bldg., Suite 100
Dover, DE 19904
Attn: PSC Docket No. 19-0377

Written comments may also be sent electronically to psc@delaware.gov and should include "PSC Docket No. 19-0377" in the subject line. Such written comments or objections must be filed with the Commission *on or before August 30, 2019*. Any written comments received after August 30, 2019 will not be considered without good cause.

The Commission will hold a public evidentiary hearing (the "Evidentiary Hearing") on the Petition during the Commission's regularly scheduled meeting at its Dover Office at a date and time to be determined.

You are invited to review the Petition and supporting documents to determine whether your interests may be affected. You may review the Petition and supporting material in person at the Commission's Dover office or on the Commission's website <https://delafile.delaware.gov> for

DelaFile, its electronic filing system. Under Search Docket # insert 19-0377. You may also review the Petition and supporting documents at the office of the Division of the Public Advocate located at the Carvel State Office Building, 4th Floor, 820 North French Street, Wilmington, DE 19801 or 29 South State Street, Dover, DE 19904. Please call (302) 577-5077 for the Wilmington Office or (302) 241-2555 for the Dover Office or 1-888-607-2427 to arrange a time to review the documents at that location.

If you have a disability and wish to participate or to review the materials in this matter, please contact the Commission to discuss any auxiliary aids or services you might need to help you. You may contact the Commission in person, by writing, by telephone (including text telephone) or by e-mail.

If you have questions about this matter, you may call the Commission at 1-800-282-8574 (toll-free in Delaware) or (302) 736-7500 (voice and text telephone). You may also send questions regarding this matter by e-mail addressed to psc@delaware.gov and include "PSC Docket No. 19-0377" in the subject line.